

Legislative Ethics Board



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101 LEGISLATIVE BUILDING
PO BOX 40482
OLYMPIA, WA 98504-0482
360-786-7343
www.leg.wa.gov/leb
JENNIFER STRUS - COUNSEL
Jennifer.Strus@leg.wa.gov

COMPLAINT 2019 – No. 3

In re Hunt
June 14th, 2019

REASONABLE CAUSE DETERMINATION AND STIPULATION

I. NATURE OF THE COMPLAINT

The complaint alleges that Respondent violated the Ethics in Public Service Act (Act), specifically RCW 42.52.180, by reserving Conference Rooms A, B and C in the John A. Cherberg Building on behalf of Emerge Washington (Emerge WA), a candidate training organization, on February 23 and 24, 2019.

II. JURISDICTION

The Board has personal and subject matter jurisdiction. RCW 42.52.320

III. PROCEDURAL HISTORY

The complaint was received by Board counsel on February 27, 2019 and was the subject of Board discussions at regularly scheduled meetings on May 9th and June 14th, 2019.

IV. FINDINGS OF FACT

There is reasonable cause to believe the following are the pertinent facts of the case.

A. Background

1. Respondent is a member of the Senate representing the 22nd legislative district.
2. Emerge WA reserved Conference Rooms A, B and C in the Cherberg Building for training to be conducted on Saturday, February 23 and Sunday, February 24, 2019. Those reservations were made by Meagan Arndt, Respondent's Legislative Assistant

(LA) on November 1, 2018, at the request of one of Respondent's constituents who was a former Emerge WA board member.

3. The person requesting to reserve a room on behalf of Emerge WA originally asked whether the Washington Room was available for the weekend of February 23rd, 2019. When Ms. Arndt checked with Senate security, they suggested that she reserve conference rooms A, B and C in the Cherberg Building. Those rooms were available that weekend and because the security office is located in the building, security would be present during the weekend should Emerge WA need anything.
4. Had she known Emerge WA wanted to use the room for a non-approved activity, Ms. Arndt would not have made the reservation. She also did not ask the person requesting to reserve the room for any specific information about the training for which Emerge WA wanted to reserve the rooms.
5. According to Ms. Arndt, the Senate policy on reserving rooms is unclear; it does not require the requester to ask for an agenda to ensure that rooms are being used appropriately. Often, LAs rely on Senate security to ensure the rooms are being used for appropriate purposes.
6. Ms. Arndt reserved the room without discussing the reservation with Respondent. Ms. Arndt did not typically discuss room reservation requests with the Respondent. To her knowledge, few LAs discuss room reservations with the members for whom they work.

B. Emerge WA

7. The mission of Emerge WA is to "increase the number of Democratic women leaders from diverse backgrounds in public office all across the state and in all offices through recruitment, training, and providing a powerful network."
8. According to the Emerge WA website, they "offer the only in-depth, multi-month, 80-hour, cohort focused, training program that provides aspiring female leaders with cutting-edge tools and training to run for elected office and elevate themselves in our political system." Their website provides: "as a program member, you will be exposed to a variety of campaign and election experts."
9. The Emerge WA web page states that it "seeks Democratic women who are committed to effective political leadership and are interested in running for office." It selects 20-25 women from across the state each year who Emerge WA believes have the potential to be political leaders. The women selected each year are considered that year's cohort. Tuition for the 2019 cohort was \$1795 - \$795 is identified as tuition and \$1000 is identified as a fundraising requirement.
10. Members of the Emerge WA signature program meet one weekend a month and receive comprehensive training on the following topics: public speaking and communications; networking; fundraising; campaign strategy; media and messaging; field operations;

technology and new media; equity, diversity and inclusion; ethical leadership; and labor and endorsements.

11. Emerge WA also offers boot camps which are “designed for women who want to run this election cycle.” The topics covered in the boot camps include the following: campaign overview & structure; social media; developing campaign plan & strategy; endorsements & power brokers; messaging and media relations; fundraising; field campaigns; and public speaking.
12. The training offered February 23rd and 24th was part of Emerge WA’s signature program.

C. Reserving Senate Conference Rooms

13. According to the “Guidelines for the use of Senate Hearing and Conference Rooms,” Senate members and staff may reserve Senate rooms for Senate and legislative business using the room reservation guidelines.
14. With prior approval, non-legislative groups may reserve Senate rooms during the regular business hours. A fee of \$75 per day will be assessed. The fee may be waived if a Senate member sponsors and attends the meeting or during legislative session when the group has specific business before the legislature.
15. The “Guidelines” prohibit the use of the rooms for “directly or indirectly assisting campaigns, . . . promoting or opposing ballot propositions, or . . . advocating specific legislative agendas or positions.”
16. According to Senate security, through which room reservations are made, Emerge WA was not charged the \$75 room rental fee. During session most groups using Senate rooms are not charged.
17. If a request comes from a member’s office, Senate security assumes the member is attending or will at least make an appearance. If the booking comes from a member’s office and is booked during session, Senate security assumes the group has business before the legislature.
18. Senate security relies on LAs knowing the guidelines and booking rooms accordingly.
19. After the use of the Cherberg rooms by Emerge WA was brought to the Secretary of the Senate’s attention, he asked the Director of Senate Security to check all existing room reservations to ensure they were compliant with the policy. Security cancelled three prospective reservations.
20. The Secretary’s office also conducted refresher training with security staff so they would be more vigilant about the use for which room reservations are requested.

D. 2019 Cohort Attendees

21. The 2019 Emerge WA cohort comprises 26 members from across the entire state.
22. Of the 26, it appears that, at the time the training was held, three members of the 2019 cohort were candidates for public office in 2019. The offices sought by these women appear to be local, non-partisan offices.

E. Content of the Training

23. The agenda for the sessions on February 23 and 24, 2019 indicated that both days were primarily devoted to discussions about social media and how to deal with the media.
24. On February 24th, Hanna Brooks Olsen presented. According to the agenda, the title of her presentation was “Social Media.”
25. Ms. Olsen has done her presentation several times for Emerge WA. In it she discussed the purpose of social media and how to use it in campaigns. For example, she discussed with the cohort attendees how to take selfies (presumably for later posting on social media) while doorbelling so that the subject of the selfie is shown out with her constituents.
26. Ms. Olsen indicated that she was surprised that the Emerge WA event was occurring on the capitol campus. Previous presentations for Emerge WA occurred in various places off campus. She stated that she received no guidance from Emerge WA before the presentation about whether there were any topics that were off limits to discuss.
27. Teresa Purcell presented on February 23, 2019. Her presentation was entitled, “Dealing with the Media.” Part of Ms. Purcell’s presentation included a discussion about her previous run for office. She discussed with the cohort how to connect with voters on values and emphasized how to connect with those folks living in rural areas of the state.
28. Ms. Purcell also discussed what it is like to lose an election. If it happens, she emphasized that one must still live in the community after the election and how important it is not to do something during the campaign that one will regret when one returns to private life. She also discussed the importance of being on point when talking to the media as a candidate and how to direct the conversation back to the candidate’s main message.
29. On February 23, 2019, Stephanie Formas presented. Her presentation was titled “Messaging and Communication.” Ms. Formas discussed the importance of messaging in campaigns and in the legislature. She emphasized that attendees need to be thinking about being future candidates, what their strengths and weaknesses are and how to message that information to potential constituents.
30. The lunch panel on February 24th consisted of Leatta Dahlhoff, Tumwater City Council member; Diana Perez, Commissioner, Washington State Parks and Recreation Commission and candidate for the Vancouver City Council; and Immaculate Ferreria, former candidate for the state Senate.

31. The main topic of the lunch panel was the process by which one can be appointed to fill a vacant elected seat or a vacant position on a state board or commission.
32. The lunch panel also discussed what it is like to run for office as a woman; how to juggle campaigning when one has a family; and what it is like to campaign as a person of color in different neighborhoods.

V. CONCLUSIONS OF LAW - ANALYSIS

The Ethics in Public Service Act (Act) prohibits a legislator from using or authorizing the direct or indirect use of legislative facilities to assist the campaign of a person for elective office. Specifically, RCW 42.52.180 provides in pertinent part as follows:

- (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly for the purpose of assisting a campaign for election of a person to an office or for promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control or influence the actions of a state officer or state employee using public resources in violation of this section constitutes a violation of this section. . . .

The Act defines “facilities of an agency” to include, but not be limited to, “use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.” This Board has adopted a zero tolerance policy for campaign related use of legislative facilities, even if the use does not actually assist a campaign. *In re Young*, 2017- No. 41; *In re Johnson*, 1996 – No. 1; *Advisory Opinion 1997 – No. 5*; *Advisory Opinion 1995 – No. 18*.

A “candidate” is defined as “an individual who seeks nomination for election or election to public office.” RCW 42.17A.005 (9). An individual seeks nomination or election when he or she first:

- (a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;
- (b) Announces publicly or files for office;
- (c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or
- (d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection. *Id.*

According to Public Disclosure Commission rules, an individual is presumed to be a candidate if there exists a political committee promoting his or her election to public office; the individual has publicly declared that he or she is a candidate; or the individual receives a contribution or spends surplus funds after the last day of the election cycle. WAC 390-05-200; 390-16-230.

The three 2019 cohort members considered candidates meet the definition above because all had publicly declared their candidacies. Further, once a person declares as a candidate, the assumption is that he or she has a campaign, whether or not that campaign is active.

The Cherberg Building houses Senate hearing rooms, legislator, committee and caucus staff offices and conference rooms including conference Rooms A, B and C. Pursuant to the definition in RCW 42.52.010, conference rooms A, B, and C are considered a facility of an agency. RCW 42.52.180 and prior Board decisions make clear that such facilities cannot be used to “assist the campaign for election of a person to an office.”

The question then becomes whether Conference Rooms A, B and C were used by Emerge WA to assist the campaign of a person to elective office.

Emerge WA’s mission is to increase the number of Democratic women in public office. To achieve that mission, it offers extensive training in a variety of topics designed to prepare the participants to successfully run for office. The training offered by Emerge WA on February 23rd and 24th was primarily about social media. While it appears that a number of social media topics were discussed, several presenters also touched on campaign specific topics including the following: how to deal with the media as a candidate; how to connect with voters as a candidate; how to use social media when running for office; how to balance family while campaigning; and how to formulate a message as a candidate.

During these presentations, there were three declared candidates in the room. Some of the other attendees may have been prospective constituents of those declared candidates. All attendees were hearing advice about how to use social media in a campaign and how to deal with the media as a candidate for office.

Use of a room on the capitol campus by an organization whose mission is to assist in the election of women to public office, the presence of three known candidates for office as cohort attendees and training content that contained specific campaign advice on dealing with the media and use of social media is a use of state resources to assist a campaign and constitutes a violation of RCW 42.52.180.


The Board, in finding reasonable cause to believe Respondent violated RCW 42.52.180, believes it is important to note that it is no excuse that Respondent did not personally make the room reservation or was unaware that his LA made the reservation on his behalf. Respondent’s LA works for him and as such, Respondent is responsible for the actions of his LA; their lack of communication about the room reservation in this instance will not operate to excuse Respondent for the violation of .180. The Board believes it is also important to remind legislative staff that the provisions of the Ethics Act apply equally to them.

The Board feels it would be remiss if it did not mention that the policy governing the reservation of Senate rooms appears to need significant revision and clarification. This investigation revealed that it is unclear who is ultimately responsible to ensure that Senate rooms are used for appropriate purposes. Some LAs find the policy confusing, Senate security relies on LAs to ensure the rooms are used for appropriate purposes, and some members are unaware that rooms have been reserved in their names. The Senate would do well to address these issues in its policy.

VI. ORDER AND STIPULATION

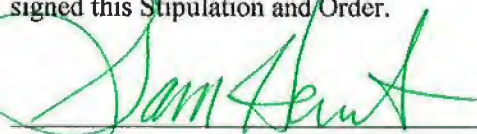
IT IS HEREBY ORDERED: that reasonable cause exists that Sen. Sam Hunt violated RCW 42.52.180 and that he pay a civil penalty in the amount of One Thousand Dollars (\$1000.00), payable to

the Washington State Treasurer; provided, however, that Five Hundred Dollars (\$500.00) of this penalty be suspended, with such suspension conditioned upon Sen. Hunt having no further violations of Chapter 42.52 RCW (Ethics in Public Services Act) through June of 2024.


Eugene Green, Chair

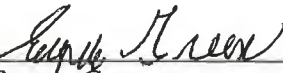
Date: 6-14-19

I, Sam Hunt, hereby certify that I have read this Stipulation and Order in its entirety; that I have had the option of reviewing this agreement with legal counsel, or have actually reviewed it with legal counsel; fully understand its legal significance and consequence; agree to the entry of findings of fact and conclusions of law, and agree to personally sign it as a resolution of this matter and have voluntarily signed this Stipulation and Order.


Sen. Sam Hunt

Date: June 13, 2019

Having reviewed the proposed Stipulation, and on behalf of the Legislative Ethics Board, the Stipulation is accepted.


Eugene Green
Chair